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AF 36438
H/B
Petition
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PETITION TO COMMISSIONER REGARDING
APPLICATION 10,083,771 FILED 02,27,2002 BY
HUEY THOMAS CROCHET
INVENTOR - HUEY THOMAS CROCHET
EXAMINER - KURT ROWON
ART UNIT 3643

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DEC 08 2003

GROUP 3600

Sir,

On November 03, 2003 a letter of Non-Compliance was mailed to the applicant concerning said applicants brief in support of appeal. Among the objections stated by the examiner are the applicants latest claims 9 - 10 which were rejected in the final office action and claims 6, 7 and 8 of the original disclosure.

The claims 6, 7 and 8 were included in the applicants brief because they clearly and definitively state the structure of the applicants fishing weight.

The applicant was cited for said structure in the final office action only which denied said applicant the opportunity to argue in support of said structure during the normal course of the examination. The applicant contends that his weight is cylindrical and that the spin means is supported by claims 6, 7 and 8.

The applicant submits that if the examiner will not let said applicant show proof that his structure is correct then the examiners citation against the applicant will stand.

Regarding the currently rejected claims 9 – 10 the examiner is adamant that the applicant must stand or fall on said claims.

The applicants submits that to do so would be an admission on the part of said applicant that the examination process was not flawed and that the claims were written by an applicant who has had the benefit of a fair examination.

The heart of the applicants argument is that the examiner misperceives the reference he is using for citations against the applicant. Combinations are being stated that can be made only ~~through~~ through the examiners misperception and the applicant contends that such combinations are invalid as is the fig. 13 of Adams.

The authority claimed by the examiner for such references comes from Adams et al, patent number 6,145,240 date of patent November 14, 2000.

Adams is a patent for a snag resistant fishing weight having several alternate embodiments.

The preferred embodiment of Adams employs a means of internal flotation which allows for a vertical mode of snag resistant operation while being retrieved.

The alternate embodiments of Adams also employ some means of internal flotation except for the fig. 13 which is an all metal construct and is solid.

The applicant claims the Adams authority as his own and will reference such to refute the examiner final response.

The applicant did not understand why he could not accurately describe his fishing weight without running afoul of the fig. 13 of Adams until reading the examiners final response and realizing what the applicant will henceforth refer to as, the examiners misperception of Adams.

Firstly the radically different material composition of the fig. 13 of Adams cannot operate in the same manner as the Adams preferred embodiment.

Adams acknowledges such in his specification on p. 6 lines 61 – 67 and p. 7 lines 1 – 6 wherein Adams states that the fig. 13 will retain many of the benefits of the preferred embodiment however he does not state what such benefits are nor does he offer an alternative mode of operation for the fig. 13.

In the examiners final response he has clearly contradicted Adams as to the mode of operation described by Adams and conjectures that the applicants fishing weight and the fig. 13 of Adams have the same basic geometry and therefore must operate in the same manner.

The applicant submits that the Adams preferred embodiment and the fig. 13 alternate embodiment are virtually identical outwardly but radically different internally.

The first employs flotation to achieve a vertical mode of operation while the other is a solid metal construct which can not achieve a vertical orientation. Adams p. 5 lines 52 – 63 p. 6 lines 61 – 67 p. 7 lines 1 – 6.

The applicant submits the above statements to be a prime example of why the examiners conjecture that the applicants weight and the fig. 13 must operate in the same manner is wrong.

In order to make such a comparison the examiner contradicts the mode of operation described by Adams. (Examiners final response lines 2 – 6) Adams states multiple times that his weights do not spin and makes no exceptions for alternate embodiments.

Adams attributes angles of curvature to his weights as part of the balance that operates to inhibit the twisting or spinning of said weights.

Such statements by Adams are found on p. 4 lines 28 – 62 wherein fig. 13 is distinctly included between lines 30 and 36.

Other statements by Adams that his weights do not spin are found in Adams on p. 1 line 55 p. 2 lines 18 – 23 p. 4 lines 34 – 35 and particularly p. 4 lines 60 – 62.

The applicant submits that the examiner does not understand that in order for fig. 13 to operate in the same manner described in the applicants specification it would have to be retrieved along the uneven terrain of the bottom riding on the apex of the back of the curve, with both ends pointed up, So as to present on obliquely upright angle to obstacles for causing a spin upon encountering said obstacles during retrieve

The applicant further submits that such retrieval is impossible for fig. 13 because of the round body and uniformly curved banana shape of fig. 13. Such a configuration would only fall over on its side to be dragged across the bottom with no snag resistant properties past those of ordinary weights of the prior art. If by chance fig. 13 were to land on the bottom with both ends up, it could not maintain such orientation as pulling on the line would cause the eyelet portion to roll forward along the back of the curve to achieve alignment with the force and direction of the line, while the rearward portion would rise up in a scorpions tail like effect causing even more instability and again would fall on its side.

The applicants drawing shows that said applicants fishing weight has a straight short angle at the line attachment end and a long, straight, heavier rearward portion.

When force is applied to the line the shorter angled portion rises to an obliquely upright condition while the longer rearward portion remains prone on the bottom and rolls laterally to accommodate the rising of the shorter, lighter angled portion. When sufficient force is applied, the weight moves across the bottom and maintains the upright condition of the leading shorter angled portion, which makes first contact with obstacles, and under a fast steady retrieve will cause a spin through impact with said obstacles. Since the line is always over and across obstacles the entire length of the weight will be above the point of line attachment and the obstacle that the line is being dragged across when said weight reaches the top of the spin.

The examiner also does not understand that the preferred embodiment of Adams cannot operate for the tight-line method of fishing whereby a taut line must be achieved between the weight on the bottom and the end of the anglers rod. Such method is described in the applicants operation of invention paragraph 1. Adams p. 3 lines 52-57 p. 5 lines 59-60.

The applicant submits that the preferred embodiment of Adams is designed to do just the opposite and is meant only to hold bait or lures to a chosen distance from the bottom while being constantly on the move. Adams background field of invention p. 1, p. 2 lines 7-12, p. 2 lines 18-23, p. 1 lines 50-57, p. 3 lines 47-57, p. 5 lines 26-28, p. 5 lines 52-63, p. 6 lines 12-18.

While the fig. 13 of Adams could function to achieve a tight-line it is not snag resistant.

The examiner states in his final response that fig. 13 and the applicants weight use multiple parts however Adams refutes such. Adams ~~p. 6 lines 13-18~~, Adams, claim 1 p. 8, p. 6 lines 36-38. *P. 1 LINES 34-47*

Sir the applicant submits that his snag resistant fishing weight produces new and surprising results which are clearly stated in said applicants abstract and objects and advantages section which the examiner has ignored. Such results are fast steady retrieves through snag laden areas on a horizontal plane of operation.

Adams cannot achieve a fast retrieve for two reasons, one is that Adams maintains contact with the bottom in order to give the angler a feel for the bottom and the second is that the actual snag resistant movements required by the vertical orientation of Adams preferred embodiment takes time to accomplish. Such is clearly indicated by Adams on p. 2 lines 7-12 and p. 2 lines 18-23.

Adams maintains contact with the bottom while being finessed through snags and only leaves the bottom upon hopping over obstacles to large to go around or through. Adams p. 1 background of invention lines 8-16. *Adams p. 1 LINES 51-57*

The applicant would like to make one further point regarding the examiners determination that said applicants fishing weight and that of Adams fig. 13 must operate in the same manner.

By such comparison the examiner clearly expects the fig. 13 to be snag resistant once endowed with the applicants mode of operation, however he has cited the applicant for 35 U.S.C. 112 wherein he states that the applicants spin means is confusing.

The applicant submits that the examiner clearly is not confused or he would not expect fig. 13 to operate in a snag resistant manner by this same spin means.

The applicant submits that his structure appears nowhere in the Adams patent and neither does said applicants mode of operation unless the examiner is allowed to change prior art by changing the mode of operation Adams describes for his weight.

The applicant respectfully requests the commissioners, close scrutiny of said applicants petition in the sincere hope that there will be a subsequent intervention by the commissioner on the applicants behalf.

Thank You,

Signed Wiley Thomas Crochet

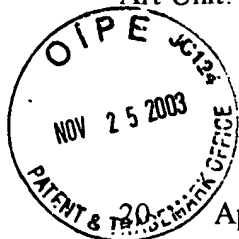
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Art Unit: 3643

GROUP 8800



Response to Arguments

Applicant's arguments filed Jan. 31, 2003 have been fully considered but they are not persuasive. Applicant argues that Adams teaches away from spinning, but this is not the case since the weight of Adams functions in the same manner as the present invention which is to be a snag free sinker. Whether or not a weight spins or turns in the water would depend on the size, weight, geometry, the obstacles in the water and the method of fishing. Adams shows the same basic structure as the present invention and hence, would function in the same manner during use. Applicant has not shown why Adams would not function in what is referred to as the "tight line method". As to the orientation of Adams in the water, clearly, this would depend on the method of fishing being employed since "tight line" fishing would result in the weight being in a vertical orientation in the water due to the upward force on the line from rod. Hence, the static performance would be the same as the present invention. Whether or not, there is redundancy in the design of Adams is material to patentability since the prior art must show the structure recited noting that applicant has used the open-ended term "comprising". In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., curvature and angle) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant argues Adams uses multiple parts but so does the present invention so the invention is not unitary.



Fig. 11

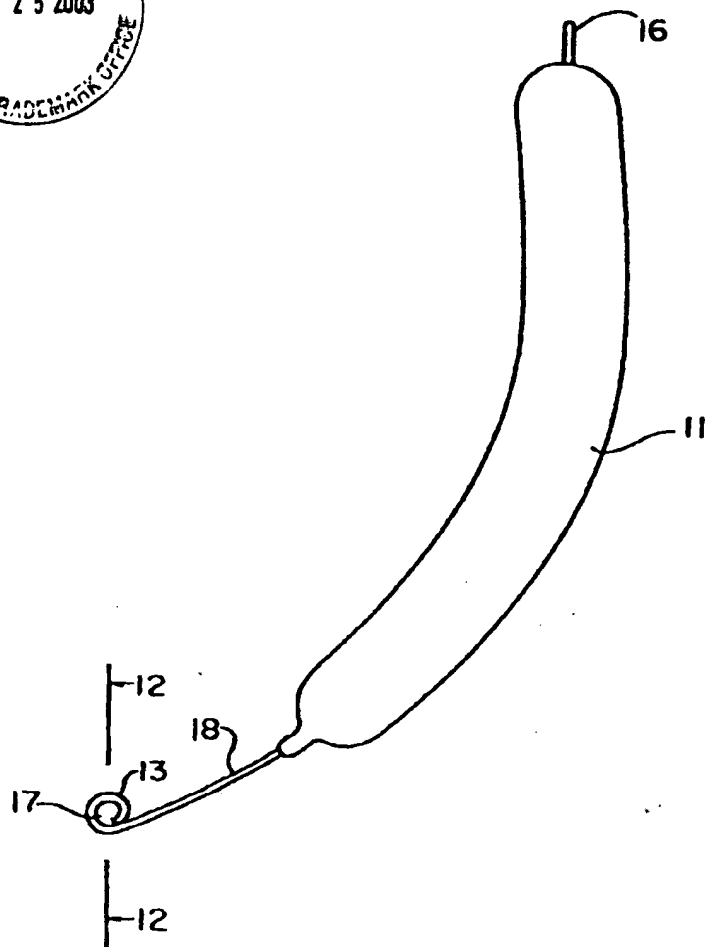


Fig. 12

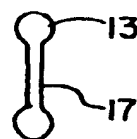
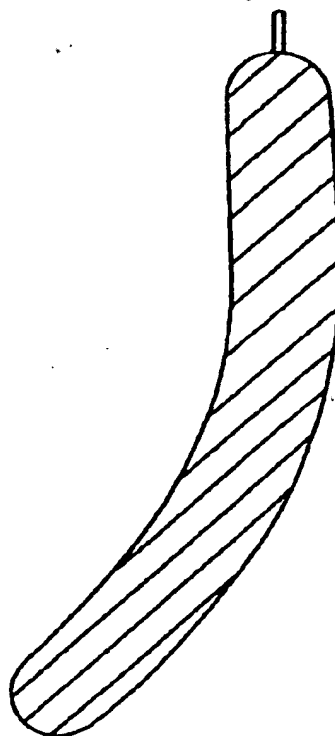


Fig. 13





Drawing For DYNAMIC SNAG
RESISTANT FISHING WEIGHT
INVENTOR Huey THOMAS CROCHET

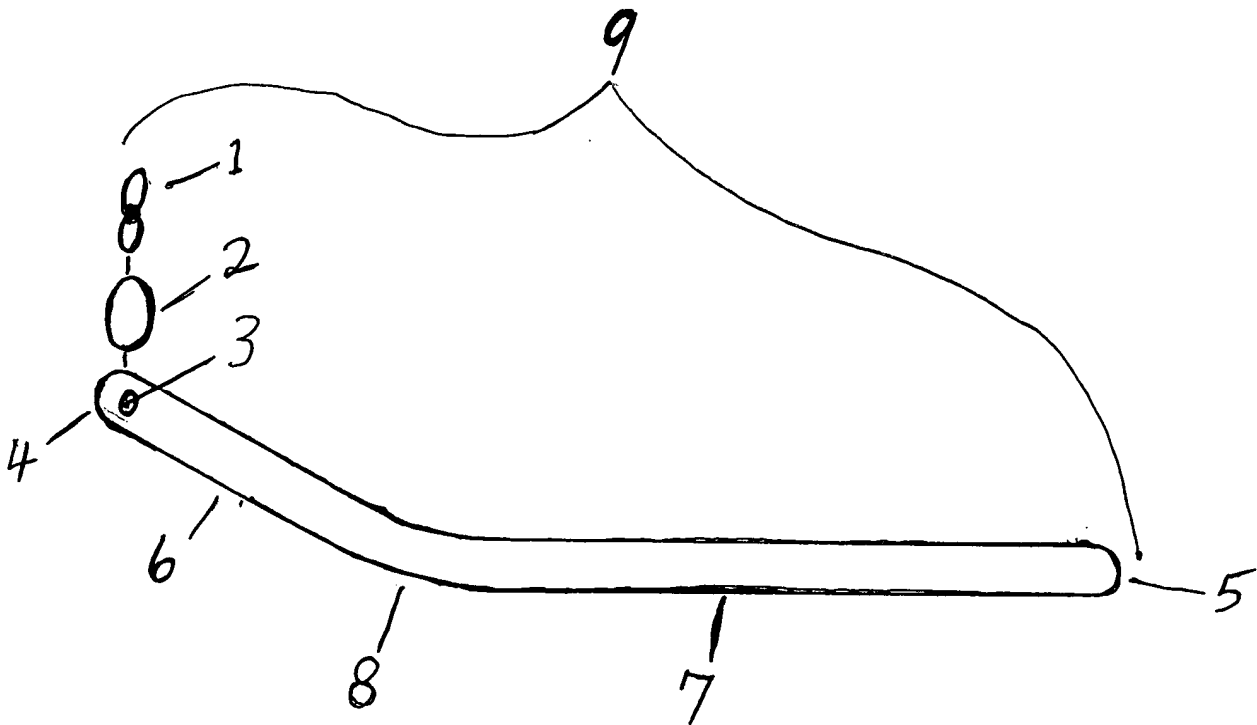


Fig. 1